

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 ARTANO AIDINI,

5 Plaintiff,

6 v.

7 COSTCO WHOLESALE CORPORATION,

8 Defendant.
9

Case No. 2:15-cv-00505-APG-GWF

**ORDER DENYING MOTION FOR
RECONSIDERATION**

(ECF No. 90)

10 Defendant Costco Wholesale Corporation previously moved to exclude plaintiff Artano
11 Aidini's premises liability expert, David Elliott, from testifying or, alternatively, to limit his
12 testimony to the opinions expressed in his report. As to this second point, Costco argued Elliott
13 should not be able to offer opinions on human factors at trial because those opinions were not in
14 his report. Aidini opposed the first part of the motion, but did not address Costco's argument that
15 Elliott should be limited to the opinions expressed in his report. I therefore granted that portion
16 of the motion. ECF No. 81. I also noted that limiting Elliott to the opinions expressed in his
17 report is consistent with Federal Rule of Civil Procedure 26(a)(2)(B)(i)'s requirement that an
18 expert report contain "a complete statement of all opinions the witness will express and the basis
19 and reasons for them." Aidini moves for reconsideration, arguing that he inadvertently did not
20 respond to this portion of Costco's motion.


21 A district court "possesses the inherent procedural power to reconsider, rescind, or modify
22 an interlocutory order for cause seen by it to be sufficient," so long as it has jurisdiction. *City of*
23 *L.A., Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir.2001) (quotation and
24 emphasis omitted); *see also Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1,
25 12 (1983) (citing Fed. R. Civ. P. 54(b)). "Reconsideration is appropriate if the district court (1) is
26 presented with newly discovered evidence, (2) committed clear error or the initial decision was
27 manifestly unjust, or (3) if there is an intervening change in controlling law." *Sch. Dist. No. 1J*,
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1 *Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir.1993). A district court also
2 may reconsider its decision if “other, highly unusual, circumstances” warrant it. *Id.*

3 There is no basis supporting reconsideration. There is no new law or new evidence. I did
4 not commit clear error. Nor has Aidini shown manifest injustice by limiting his expert to those
5 opinions expressed in his report. The Federal Rules require an expert to provide his opinions in
6 his report and to supplement that report if he forms new opinions.

7 IT IS THEREFORE ORDERED that plaintiff Artano Aidini’s motion for reconsideration
8 **(ECF No. 90) is DENIED.**

9 DATED this 24th day of April, 2017.

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13 ANDREW P. GORDON
14 UNITED STATES DISTRICT JUDGE
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